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*Attorneys for Plaintiffs and the Putative Classes*

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

**JONATHAN HOANG TO; JEFFRY HEISE;**  
**and JOSEPH MULL**, individually and on  
behalf of all others similarly situated,

Plaintiffs,

v.

**DIRECTTOU, LLC**, a Delaware Limited  
Liability Company

Defendant.

Case No. 3:24-CV-06447-WHO

**DECLARATION OF JULIAN  
HAMMOND IN SUPPORT OF  
PLAINTIFFS' OPPOSITION TO  
DEFENDANT'S MOTION TO  
DISMISS, TRANSFER, OR STAY  
UNDER THE FIRST-TO-FILE RULE**

Judge: Hon. William H. Orrick  
Courtroom: 2  
Hearing Date: March 5, 2025  
Hearing Time: 2:00 p.m.

1 I, Julian Hammond, declare as follows:

2 1. I am a member in good standing of the Bar of the State of California and counsel  
3 of record for Plaintiffs and the putative Class. I make this declaration based on personal knowledge  
4 and, if called as a witness, I could and would testify competently to the matters set forth herein.

5 2. After Plaintiff Hoang To and Defendant DirectToU, LLC entered into a Class  
6 Action Settlement Agreement, Defendant, on October 24, 2024, moved the court in the related  
7 action *Feller v. Alliance Entertainment, LLC*, No. 24-cv-61444-RAR (S.D. Fla.) (the “*Feller*  
8 *Action*”) to stay the *Feller Action* pending resolution of the motion for preliminary approval of the  
9 Class Action Settlement in this action, and on November 12, 2024, the court in *Feller* granted  
10 Defendant’s motion, staying the *Feller Action* pending the approval process in this case and  
11 administratively closing the *Feller Action*.

12 3. Pursuant to the Court’s Order denying Plaintiff Hoang To’s Motion for  
13 Preliminary Approval, Plaintiff Hoang To and Defendant met and conferred with Defendant  
14 regarding additional discovery as to the non-Meta VPPA claim.

15 4. During the meet and confer process it became apparent to Plaintiff that additional  
16 discovery, including third party discovery, was needed in order to properly evaluate the non-Meta  
17 pixel claims. However, the parties were unable to reach agreement on additional discovery, and  
18 Plaintiff filed a motion on January 17, 2025, to open limited discovery focused on the non-Meta  
19 VPPA claim.

20 5. On January 28, 2025, after Defendant and *Feller* Plaintiffs informed the court of  
21 the status of the instant case, the court presiding over the *Feller Action* extended the stay of the  
22 *Feller Action*.

23 6. Counsel for Plaintiff Hoang To and Plaintiffs Heise and Feller (who were formerly  
24 plaintiffs in the *Feller Action*) recently agreed to jointly prosecute this action on behalf of the  
25 proposed Class and California subclass.

26 ///

27 7. On February 7, 2025, Plaintiff Hoang To filed a Third Amended Complaint,  
28 which, *inter alia*, adds Jeffry Heise and Joseph Mull (two of the three plaintiffs in the *Feller*

1 Action) as Plaintiffs in this case, to serve alongside Plaintiff Hoang To as putative representatives  
2 of the Class.<sup>1</sup>

3 8. Also on February 7, 2025, promptly following the filing of the Third Amended  
4 Complaint in this case, the plaintiffs in the *Feller* Action filed a Notice of Voluntary Dismissal in  
5 the *Feller* Action pursuant to Federal Rule of Civil Procedure 41(a)(1). The Court dismissed the  
6 *Feller* Action without prejudice the same day.

7 9. Prior to its dismissal, the *Feller* Action had not advanced past the pleadings stage.  
8 Defendant's motion to dismiss pursuant to 12(b)(6) had not been decided (or even fully briefed),  
9 Defendant had not produced any documents responsive to the plaintiffs' first set of written  
10 discovery requests, and no third party had formally responded to any of the subpoenas for  
11 documents issued by the *Feller* plaintiffs.

12 10. Plaintiffs in this case (Plaintiff Hoang To, the Plaintiff who initiated this action,  
13 together with Plaintiffs Heise and Mull, formerly the plaintiffs in the now-dismissed *Feller* Action  
14 and presently Plaintiffs in this case) are prepared to promptly serve, as soon as discovery  
15 commences, targeted discovery requests and third-party subpoenas similar to those previously  
16 served in the *Feller* Action.

17 I hereby declare under penalty of perjury of the laws of the United States that the foregoing  
18 statements are true and correct. Executed on February 10, 2025.

19  
20 /s/ Julian Hammond

21 Julian Hammond  
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27  
28 <sup>1</sup> The third named plaintiff in the *Feller* Action, Douglas Feller, was not added as a named  
plaintiff in the instant case because he no longer wishes to be involved in this litigation.